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EXAMINER

MAYO III, WILLIAM H

ART UNIT

PAPER NUMBER

2831

DATE MAILED: 07/24/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/454,333

Applicant(s)

SCHILSON ET AL.

Examiner

William H. Mayo III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30, 34 and 80-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 80-84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 6, 9, 11, 13, 15, 22-23, 25, 30, 80, and 83-84 are rejected under 35 U.S.C. 102(b) as being anticipated by Hara (Pat Num 5,250,127). Hara discloses a well-known flat electrical cable (Fig 3). Specifically, with respect to claim 1, Hara discloses a flat electrical cable (Fig 3) comprising an upper insulator layer (upper 10), a lower insulator layer (lower 10) connected to the upper insulator layer (upper 10) along a substantially continuous parallel spaced apart seam (denoted as 20), and an intermediate layer comprised of individual strands of conductors (2) that lie adjacent and substantially parallel to the seams (20), wherein the conductors do not have an adhesive residue thereon (Col 1, lines 61-68), wherein the seams (20) positioned between the adjacent conductors (2) have a textured surface pattern (denoted as 25) and wherein seams (30) are positioned along the edges (side surfaces on both right and left ends) of the flat electrical cable (Fig 3) have substantially smooth surface pattern (see 30). With respect to claim 2, Hara discloses that the upper layer (upper 10) includes a plurality of raised surfaces (denoted as 35) running parallel to each other along a length of the cable (Fig 3). With respect to claim 6, Hara discloses that the

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electrical cable (Fig 3) has parallel seams (20). With respect to claim 9, Hara discloses that a seam (30) is positioned along an edge (side surfaces on both right and left ends) of the flat electrical cable (Fig 3) to form a smooth edge (see 30). With respect to claim 11, Hara discloses that a seam (30) is positioned along an edge (side surfaces on both right and left ends) of the flat electrical cable (Fig 3) to form a smooth edge (see 30). With respect to claim 13, Hara discloses that the cable (Fig 3) includes a continuous seam (40) for a non-bonded area where the upper and lower insulator layers (upper and lower 10) are not connected (where the conductors are disposed). With respect to claim 15, Hara discloses that the seam (30) positioned between adjacent conductors have a knurled textured surface pattern (25). With respect to claim 22, Hara discloses a flat electrical cable (Fig 3) comprising an upper insulator layer (upper 10), a lower insulator layer (lower 10) connected to the upper insulator layer (upper 10) along a substantially continuous parallel spaced apart seam (denoted as 20), and an intermediate layer comprised of a group of conductors (multiple 2's) that lie adjacent and substantially parallel to the seams (20), wherein the conductors do not have an adhesive residue thereon (Col 1, lines 61-68). With respect to claim 23, Hara discloses that the group of conductors (multiple 2's) includes a single conductor (2). With respect to claim 25, Hara discloses that conductor group is a tandem conductor group (multiple 2's) that includes two substantially identical conductors (1st and 2nd 2's) positioned adjacent to each other (Fig 3). With respect to claim 30, Hara discloses a flat electrical cable (Fig 3) comprising an upper insulator layer (upper 10), a lower insulator layer (lower 10) connected to the upper insulator layer (upper 10) along a substantially

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continuous parallel spaced apart seam (denoted as 20), and an intermediate layer comprised of individual strands of conductors (2) that lie adjacent and substantially parallel to the seams (20), wherein the conductors do not have an adhesive residue thereon (Col 1, lines 61-68), wherein the seams (20) positioned between the adjacent conductors (2) have a first textured surface pattern (25) and the seams (30) are positioned along the edges (side surfaces on both right and left ends) of the flat electrical cable (Fig 3) have substantially second surface pattern (see 30), wherein the surface roughness of the first textured surface pattern (25) is greater than a surface roughness of the second surface pattern (smooth surface at 30). With respect to claims 80 & 83-84, Hara discloses that the upper layer (upper 10) includes a plurality of raised surfaces (denoted as 35) running parallel to each other along a length of the cable (Fig 3) and the lower surface (lower 10) is substantially planar (located in a plane) along the length of the cable (Fig 3).

With respect to claims 6, 9, and 11, the method limitations, such as ultrasonically welding or being cut have been considered, however, based on the fact that the method as claimed doesn't add any patentable or distinguishable claimed structure to the claim, and the final product as claimed is the same as the prior art, the method is not germane to patentability. Specifically, it has been held that the patentability of a product does not depend on its method of production, where the method as claimed doesn't result in a structural difference between the prior art and the claimed invention. *In re Thorpe*, 777 F2d 695, 698, 227 USPQ 964, 966.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-4, 7-8, 10, 12, 16-21, and 81-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hara (Pat Num 5,250,127) in view of Richter (Pat Num 3,168,617). Hara discloses a well-known flat cable (Fig 3) as disclosed with reference to claims 1 and 6 above. Specifically, with respect to claim 3, Hara discloses that the cable (Fig 3) includes seven conductors (2). With respect to claim 18, Hara discloses a flat electrical cable (Fig 3) comprising an upper insulator layer (upper 10) having a ribbed surface (25), a lower insulator layer (lower 10) connected to the upper insulator layer (upper 10) along a substantially continuous parallel spaced apart seam (denoted as 20), and individual strands of conductors (2) that lie adjacent and substantially parallel to the seams (20) between the upper and lower insulation layers (upper and lower 10), wherein the seams (20) positioned between the adjacent conductors (2) have a textured surface pattern (denoted as 25) and wherein seams (30) are positioned along the edges (side surfaces on both right and left ends) of the flat electrical cable (Fig 3) have substantially smooth surface pattern (see 30). With respect to claim 19, Hara discloses that the seam (30) positioned between adjacent conductors have a knurled textured surface pattern (25). With respect to claim 20, Hara discloses that the seams (20) positioned between adjacent conductors (2) have repeating linear segment

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textured surface patterns (25), wherein the repeating linear segment textured surface patterns (25) are substantially perpendicular to a length (shown at 45) of the flat electrical cable (Fig 3). With respect to claim 21, Hara discloses a flat electrical cable (Fig 3) comprising an upper insulator layer (upper 10) having a ribbed surface (25), a lower insulator layer (lower 10) connected to the upper insulator layer (upper 10) along a substantially continuous parallel spaced apart seam (denoted as 20), and individual strands of conductors (2) that lie adjacent and substantially parallel to the seams (20) between the upper and lower insulation layers (upper and lower 10), wherein the seams (20) positioned between the adjacent conductors (2) have a first zone (surface over 7th conductor) and a second zone (top 30), wherein the first zone (surface over 7th conductor) is adjacent to one conductor (2) of the conductors (multiple 2's) and extends substantially parallel to the conductor (2) wherein the first zone (surface over 7th conductor) has a knurled textured surface pattern (denoted as 25) and wherein the second zone (top 30) is located between the first zone (surface over 7th conductor) and one edge of the edges (bottom 30), wherein the second zone (top 30) has a smooth textured surface pattern (see top 30 edge). With respect to claims 81-82, Hara discloses that the upper layer (upper 10) includes a plurality of raised surfaces (denoted as 35) running parallel to each other along a length of the cable (Fig 3) and the lower surface (lower 10) is substantially planar (located in a plane) along the length of the cable (Fig 3).

However, Hara doesn't necessarily disclose the top and bottom insulator layers being polyester (claims 3, 18, and 21), nor the conductors being copper or copper alloy

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(claim 4, 18, and 21), nor one of the seams along the edge being broader than the seam positioned between adjacent conductors (claims 7-8 & 10), nor the conductors being exposed at an end beyond the upper and lower insulator layers (claim 12), nor the cable having a linear density of substantially 4.35 grams per foot (claim 17).

Richter teaches flat flexible multi-conductor cable (Figs 1-2) that has optimum characteristics of resistance to abrasion, dielectric strength, tensile strength, and mechanical stability (Col 2, lines 50-55). Specifically, with respect to claim 3, Richter teaches a flat electrical cable (Figs 1-2) comprising a plurality of conductors (10), which may be made of copper (Col 3, lines 18-20). With respect to claim 4, Richter teaches that the flat electrical cable (Figs 1-2) has a top insulator layer (10) and a bottom insulator layer (11), which may be made of polyester (Col 3, lines 45-55). With respect to claim 7, Richter teaches that the flat cable (Fig 2) comprising at least one seam (denoted as 20) along the edge (left side) which is broader (i.e. thicker) than the seams (denoted as 30) positioned adjacent the conductors (10). With respect to claim 8, Richter teaches that the at least one seam (denoted as 20) positioned along the edge (left side) of the flat cable (Fig 2) is broader (i.e. thicker) than the seams (denoted as 30) positioned adjacent the conductors (10). With respect to claim 10, Richter teaches that the flat cable (Fig 2) comprising at least one seam (denoted as 20) along the edge (left side) which is broader (i.e. thicker) than the seams (denoted as 30) positioned adjacent the conductors (10). With respect to claim 12, Richter teaches that the cable (Fig 1) has conductors (10) that are exposed at an end beyond the upper and lower insulator layers (11 & 12 respectively). With respect to claim 17, Richter teaches that the flat cable (Fig

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3) comprises a conductor (10) that is 0.0015 inch by 0.030 in thick wherein 30 conductors (10) in a 100 foot roll weight less than 2 pounds and has a thickness of 0.008 inch (i.e. density = mass per volume), therefore the density would be lower than 4.35 grams/foot. With respect to claim 18, Richter teaches a flat electrical cable (Figs 1-2) comprising a plurality of conductors (10), which may be made of copper (Col 3, lines 18-20) that are surrounded by a top insulator layer (10) and a bottom insulator layer (11), which may be made of polyester (Col 3, lines 45-55). With respect to claim 21, Richter teaches a flat electrical cable (Figs 1-2) comprising a plurality of conductors (10), which may be made of copper (Col 3, lines 18-20) that are surrounded by a top insulator layer (10) and a bottom insulator layer (11), which may be made of polyester (Col 3, lines 45-55).

With respect to claims 3-4, 18, and 21, it would It would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the flat cable of Hara to comprise the conductor to be made of known materials such as copper and the insulator layers to be made of known materials such as polyester as taught by Richter because Richter teaches that copper conductors are commonly utilized in flat cable (Col 1, lines 18-20) and that insulators made of common materials, such as polyester (PET, Mylar), result in an insulator having high flexibility, stability, and long life (Col 3, lines 69-73) and since it has been held to be within general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

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With respect to claims 7-8 & 10, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the flat cable of Hara to comprise the at least one seam along the edge to be broader than the seams positioned adjacent the conductors as taught by Richter because Richter teaches that such a configuration provides a flat cable having optimum characteristics of resistance to abrasion, dielectric strength, tensile strength, and mechanical stability (Col 2, lines 50-55).

With respect to claim 12, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the flat cable of Hara to comprise the conductors to exposed at an end beyond the upper and lower insulator layers as taught by Richter because Richter teaches that such a configuration prepares a cable end for connection to other electrical devices (Col 5, lines 46-48).

With respect to claim 17, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the flat cable of modified Hara to comprise a linear density of substantially 4.35 grams per foot, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

With respect to claims 8, 18, and 21, the method limitations, such as ultrasonically welding or being produced by an ultrasonic welding, have been considered, however, based on the fact that the method as claimed doesn't add any patentable or distinguishable claimed structure to the claim, and the final product as claimed is the same as the prior art, the method is not germane to patentability.

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Specifically, it has been held that the patentability of a product does not depend on its method of production, where the method as claimed doesn't result in a structural difference between the prior art and the claimed invention. *In re Thorpe*, 777 F2d 695, 698, 227 USPQ 964, 966.

5. Claims 5, 24, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hara (Pat Num 5,250,127) in view of Huber (Pat Num 4,952,020). Hara discloses a well-known flat cable (Fig 3) as disclosed with reference to claims 1, 22, and 25 above.

However, Hara doesn't necessarily disclose one of the conductors being a fiber optic cable (claim 5), nor the one of the conductor groups including a fiber optic cable (claim 24), nor one of the conductor groups including a wire rope conductor group, wherein the wire rope group includes a plurality of wire conductors wound together (claim 25), nor one of the conductor groups including a wire rope conductor group, wherein the wire rope group includes a plurality of wire conductors wound together (claim 29).

Huber teaches a ribbon cable (Figs1-3) having optical fibers and electrical conductors. Specifically, with respect to claim 5, Huber teaches ribbon cable (1, Fig 3) which comprises at least one optical cable (2) and at least one conductor (3) spaced side by side surrounded by an insulation (4). With respect to claim 24, Huber teaches at least one of the groups of conductors (2 & 3) comprises at least one fiber optic cable (3). With respect to claim 25, Huber teaches that at least one of the conductor groups (2 & 3) comprises a wire rope conductor group (both 3's), wherein the wire rope groups

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(3) includes a plurality of wire conductors (individual conductors denoted 20 surrounding a core wire denoted as 30) wound together (Fig 3). With respect to claim 29, Huber teaches that at least one of the conductor groups (2 & 3) comprises a wire conductor group (both 3's), wherein the wire rope group (3) includes a plurality of wire conductors (individual conductors denoted 20 surrounding a core wire denoted as 30) wound together (Fig 3).

With respect to claims 5 & 24, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the flat cable of Hara to comprise at least one optical cable as taught by Huber because it is well known in the art of cables utilizing optical fibers in a cable provides a cable with significant advantages such as increased band width, reduction of weight, and utilizing less space thereby forming a cable that is lighter, smaller, and has superior transmitting capability.

With respect to claims 25 & 29, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the flat cable of Hara to comprise at least one optical cable as taught by Huber because it is well known in the art of cables utilizing stranded conductors rather than solid conductors provides a cable with increased flexibility to enable better routing of the cable.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hara (Pat Num 5,250,127) in view of Love (Pat Num 3,239,916). Hara discloses a well-known flat cable (Fig 3) as disclosed with reference to claim 1 above. Specifically, with respect to claim 14, Hara discloses that the cable (Fig 3) includes a continuous seam

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(40) for a non-bonded area where the upper and lower insulator layers (upper and lower 10) are not connected (where the conductors are disposed).

However, Hara doesn't necessarily disclose the inner and lower insulator windows comprising windows to expose the conductors (claim 14).

Love teaches a ribbon cable (Figs 1-8) which is easily connected to electrical components even at points intermediate to its ends (Col 1, lines 54-56). Specifically, with respect to claim 14, Love teaches a ribbon cable (Fig 1) comprising an upper layer of insulator (11) and a lower layer of insulator (12), made of polyester, and an intermediate layer comprising conductors (13-17) between the upper and lower insulator layers (11 & 12), wherein the upper and lower insulator windows (11 & 12) comprise windows (20) to expose the conductors (13-17, Fig 1).

With respect to claim 14, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the flat cable of Hara to comprise the inner and lower insulator windows comprising windows to expose the conductors as taught by Love because Love teaches that such a configuration provides a cable with a unique way to fabricate the ribbon cable segments of any desired length, shape, and configuration (Col 5, lines 70-75) to thereby ensure that the conductors are easily connected to electrical components even at points intermediate to its ends (Col 1, lines 54-56).

7. Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hara (Pat Num 5,250,127) in view of Coon (Pat Num 4,780,157). Hara discloses a well-known flat cable (Fig 3) as disclosed with reference to claim 22 above.

However, Hara doesn't disclose one of the conductor groups including a dual stacked conductor group, wherein the dual stacked group includes two substantially identical conductors, wherein a first conductor of the two substantially identical conductors is stacked on a second conductor of the two substantially identical conductors of the dual stacked conductor group (claim 26), nor one of the conductor groups including a triple stacked conductor group, wherein the dual stacked group includes three substantially identical conductors, wherein a first conductor of the three substantially identical conductors is stacked on a second conductor of the three substantially identical conductors of the triple stacked conductor group, and wherein the second conductor of the three substantially identical conductors is positioned adjacent to a third conductor of the three substantially identical conductors of the triple stacked conductor group (claim 27).

Coon teaches a ribbon cable (Figs 4-6) having various configurations. Specifically, with respect to claim 26, Coon teaches a ribbon cable (Fig 6) comprising a dual stacked conductor group (210), wherein the dual stacked group (210) includes two substantially identical conductors (top and bottom 18), wherein a first conductor (top 18) of the two substantially identical conductors (top and bottom 18) is stacked on a second conductor (bottom 18) of the two substantially identical conductors (top and bottom 18) of the dual stacked conductor group (top and bottom 18). With respect to claim 27, Coon teaches that the ribbon cable (Fig 6) may comprise an unlimited number of conductors (18) positioned in one or more ribbons may be used to form ribbon cable (210), therefore the ribbon cable may be a triple stacked conductor group (210),

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wherein the dual stacked group (210) includes three substantially identical conductors (18), wherein a first conductor of the three substantially identical conductors would be stacked on a second conductor of the three substantially identical conductors of the triple stacked conductor group, and wherein a second conductor of the three substantially identical conductors would be positioned adjacent to a third conductor of the three substantially identical conductors of the triple stacked conductor group (Cols 3-4, lines 65-68 & 1-2 respectively).

With respect to claim 26, it would have been obvious to one having ordinary skill in the art of cables at the time the invention was made to modify the ribbon cable of Hara to comprise the multiple layered conductor configuration as taught by Coon because Coon teaches that folding a ribbon cable such that it has multiple layers of conductors provides an improved cable configuration wherein there is no limitations as to the number of conductors may be utilized (Col 1 & 2, lines 65-68 & 1-2), thereby increasing the electrical capacity of the cable with a specified width without increased the width.

With respect to claim 27, it would have been obvious to one having ordinary skill in the art, at the time the invention was made to modify the ribbon cable of Hara to comprise a unlimited amount of conductors thereby forming a cable unlimited stacks of conductors, as taught by Coon since a triple stacked group of conductor having three substantially identical conductors, wherein a first conductor of the three substantially identical conductors would be stacked on a second conductor of the three substantially identical conductors of the triple stacked conductor group, and wherein a second

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conductor of the three substantially identical conductors would be positioned adjacent to a third conductor of the three substantially identical conductors of the triple stacked conductor group appears to be in the scope of Coon and since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. (*St. Regis Paper Co v. Bemis Co.*, 193 USPQ 8).

Response to Arguments

8. Applicant's arguments filed May 20, 2003 have been fully considered but they are not persuasive. The applicant argues the following:

- A) It is unclear whether the Examiner is relying on the prior art disclosed in Hara in order to show the lack of adhesive agent, however Fig 3 nor the description of in the Background of Invention does not disclose how the conductors and the insulation tape are attached.
- B) Hara doesn't disclose a textured surface or pattern nor the combination of a textured surface with a smooth surface.
- C) The difference between ultrasonic welding and adhesive attachment is structural in nature and therefore ultrasonic welding imputes structural limitations.

With respect to arguments A and B, the examiner respectfully traverses. Firstly, it is clear from the rejection that the examiner intends to discuss the prior art of Hara as stated in the rejection, which discloses Figure 3 as the figure of interest. Clearly, the prior art of Hara discloses a ribbon cable not utilizing adhesive. As stated in Column 1,

lines 25-27, Hara explicitly discloses how the conductors and the insulation tape are attached. Specifically, Hara states

“.... there is a construction such that the conductors
2 and 4 are sandwiched between an upper and lower
pair of insulation tapes”

The examiner can only rely on the prior art reference for what it discloses or suggest to one of ordinary skill in the art. Clearly, there is no disclosure of an adhesive being utilized with respect to Figure 3. There is absolute no indication of an adhesive in figure in which the examiner relies. Therefore, it is proper to assume that no adhesive is present in the prior art Figure 3 because Hara clearly discloses and illustrates when adhesive is utilized (see Col 4, lines 36-66 & Fig 10). The above statement is consistent with finding, that it has been held that the drawings must be evaluated for what they reasonably disclose and suggest to one of ordinary skill in the art. In re Aslanian, 590 F. 2d 911, 200 USPQ 500 (CCPA 1979). Clearly, when an adhesive is being utilized it is shown in the Figures or discussed in the specification. Absent either the specification disclosing or an adhesive layer being illustrated in the drawings, it is proper to assume that no adhesive exist. It is also proper to examiner the prior art drawings for what they disclose. Specifically, the use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain.” In re Heck, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re Lemelson, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)). In

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this case, Hara clearly discloses in Figure 3, that the ribbon cable has a textured surface and a non-bonded region (where the conductors are present and denoted as 40 in Figure 3, see attachment). Therefore, the rejection utilizing the drawings is proper and within the guidelines of the MPEP.

With respect to argument C, the examiner respectfully traverses. While the examiner agrees that ultrasonic welding structurally defines over adhesive bonding, as stated above Hara clearly teaches the prior art ribbon cable being extruded and then bonded without the usage of adhesive. This bonding of the insulation layers will result in the same structure as ultrasonic welding as both are just bonding the insulation layers without adhesive. Absent a difference in the final structure, it has been held that the patentability of a product does not depend on its method of production, where the method as claimed doesn't result in a structural difference between the prior art and the claimed invention. *In re Thorpe*, 777 F2d 695, 698, 227 USPQ 964, 966. In light of the finding, the rejection is proper and just.

The examiner relies that the reference numbers inserted in the Hara reference may not have been received by the applicant. Therefore, a courtesy copy of Figure 3 is enclosed.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Communication

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William H. Mayo III whose telephone number is (703) 306-9061. The examiner can normally be reached on M-F 8:30 a. m. -6:00 p.m. (alternating Friday's off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on (703) 308-3682. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3432 for regular communications and (703) 305-1341 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



WHM III
July 14, 2003